

LUKE W. COLE, California Bar No. 145,505  
CAROLINE FARRELL, California Bar No. 202,871  
BRENT J. NEWELL, California Bar No. 210,312  
Center on Race, Poverty & the Environment  
47 Kearny St, Suite 804  
San Francisco, CA 94108  
415/346-4179 • fax 415/346-8723

NANCY S. WAINWRIGHT, Alaska Bar No. 8711071  
Law Offices of Nancy S. Wainwright  
13030 Back Road, Suite 555  
Anchorage, AK 99515-3358  
907/345-5595 • fax 907/345-3629

Attorneys for Plaintiffs Enoch Adams, Jr., Leroy  
Adams, Andrew Koenig, Jerry Norton, David  
Swan and Joseph Swan

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

ENOCH ADAMS, JR., LEROY ADAMS,  
ANDREW KOENIG, JERRY NORTON  
DAVID SWAN and JOSEPH SWAN,

Plaintiffs,

v.

TECK COMINCO ALASKA INCORPORATED

Defendant.

NANA REGIONAL CORPORATION and  
NORTHWEST ARCTIC BOROUGH,

Intervenors-Defendants.

Case No. A04-49 (JWS)

PLAINTIFFS' REQUEST  
FOR SCHEDULING ORDER  
REGARDING TRIAL BRIEFS

Plaintiffs Enoch Adams, et al., respectfully request some clarification, and modification, of  
the Court-set briefing schedule for the trial briefs in this case. On September 21, 2007, this Court  
entered a pre-trial Order setting February 26, 2008 as the date for filing of all parties' trial briefs.

PLAINTIFFS' REQUEST FOR SCHEDULING  
ORDER REGARDING TRIAL BRIEFS

1 Docket 177. “Such brief will contain a short, plain, and candid statement of the party's position and  
2 authorities as to each contested issue of law. It will disclose and brief those theories of the case  
3 which a party will urge at trial.” Docket 177 at 4.

4 On January 25, 2008, the Court granted Adams’s request to file a motion for summary  
5 judgment on four legal questions. Docket 206. As instructed by the Court, that motion was timely  
6 filed on February 8, 2008. Docket 241. The Response is due on February 18, and any reply due on  
7 February 21. Docket 206. That motion concerns arguments on four contested issues of law which  
8 directly relate to Adams’s (and, presumably, defendants’) positions at trial. Although the briefing  
9 will be done by February 21 on this motion, all parties’ trial briefs – which are supposed to address  
10 “contested issues of law” – are due just five days later. Even were the Court to rule on the summary  
11 judgment motion within those five days (not an expectation Adams holds), it would be difficult to  
12 reflect the resolution of the four contested issues in a cogent and trenchant trial brief filed on  
13 February 26.

14 To resolve this situation, and to obviate the need for all parties to include the same issues in  
15 their trial briefs that are included in their summary judgment filings in the event that the Court does  
16 not resolve the motion by February 26, Adams respectfully requests that the Court issue a  
17 scheduling order setting the due date for the trial briefs 14 days from the Court’s ruling on the  
18 summary judgment motion at 241. This will allow the parties to brief only those legal issues  
19 remaining after summary judgment, a time savings to both the litigants and the Court. Adams  
20 reflects this request in an attached [Proposed] Order. Adams is informed that NANA will not  
21 oppose this request as long as the date set is in March.

22 Respectfully submitted this 15th day of February, 2008.

23  
24 /s/ Luke Cole  
25 \_\_\_\_\_  
26 Luke Cole  
27 Attorney for Plaintiffs  
28

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February 2008, a true and correct copy of the foregoing Request for Scheduling Order was served, via electronic mail, on the below identified parties of record:

Sean Halloran  
Hartig Rhodes  
717 K Street  
Anchorage, AK 99501

Nancy S. Wainwright  
Law Offices of Nancy S. Wainwright  
13030 Back Road, Suite 555  
Anchorage, Alaska 99515-3538

James E. Torgerson  
Heller Ehrman White & McAuliffe LLP  
510 L Street, Suite 500  
Anchorage, Alaska 99501-1959

David S. Case  
Landye Bennett Blumstein LLP  
701 W. 8<sup>th</sup> Ave., Suite 1200  
Anchorage, AK 99501

Thane Tienison  
Landye Bennet Blumstein  
1300 Southwest Fifth Ave, Suite 3500  
Portland, OR 97201

---

/s/ Luke Cole

Luke Cole